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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re

SHARIF H. PERSON,

Debtor.

Chapter 13

Case No. 18-24707-VFP

Judge Vincent F. Papalia

Hearing Date: Nov. 1, 2018

Hearing Time: 10:00 a.m.

**OBJECTION OF INTERNAL REVENUE SERVICE TO CONFIRMATION
OF DEBTOR'S CHAPTER 13 PLAN**

THE UNITED STATES OF AMERICA, on behalf of the Internal Revenue Service (the “Service”), submits the following objection to confirmation of the above-captioned debtor’s Chapter 13 Plan (the “Plan”) [ECF Doc No. 2]. In support thereof, the Service respectfully represents as follows:

OBJECTION

A. The Plan is Not Confirmable with Respect to the Service's Priority Claim

1. With respect to claims entitled to priority under Bankruptcy Code section 507(a)(8), a chapter 13 plan must “provide for the full repayment, in deferred cash payments . . . unless the holder of a particular claim agrees to a different treatment of such claim.” 11 U.S.C. § 1322(a)(2). Here, the Plan provides for less than full payment of the Service’s Priority Claim, which is currently estimated in the amount of \$52,931.25. Plan, Part 3; Claim No. 1. On this basis, the Plan cannot be confirmed under Bankruptcy Code section 1322(a)(2).

B. The Plan is Generally Unconfirmable Based on Debtor's Failure to File Tax Returns

2. As noted in the proof of claim filed by the Service, the Debtor has failed to file a Form 1040 federal income tax return for tax year 2014. *See* Claim No. 1. Pursuant to Bankruptcy Code section 1308(a), the Debtor is required to file all tax returns due within four years of the Petition Date. 11 U.S.C. § 1308(a). Non-compliance with section 1308 renders a chapter 13 plan unconfirmable under Bankruptcy Code section 1325(a)(9). 11 U.S.C. § 1325(a)(9). Moreover, the Debtor’s failure to file returns due outside the time period covered by section 1308 also renders the Plan unconfirmable under Bankruptcy Code section 1325(a)(3). That section requires that a plan be “proposed in good faith and not by means forbidden by law.” 11 U.S.C. § 1325(a)(3). The Debtor’s failure to file *all returns* necessary for the Service to calculate its claim precludes him from meeting this requirement. *In*

re Weik, 526 B.R. 829, 835 (Bankr. D. Mont. 2015) (“Debtor’s attempt to repay some obligations by means of a chapter 13 plan without having filed *all required tax* returns is contrary to § 1325(a)(3)’s requirement that the plan be proposed ‘not by any means prohibited by law.’”) (emphasis added).

CONCLUSION

WHEREFORE, for the foregoing reasons, the Service requests that the Court (i) deny confirmation of the Plan until such time as the above-referenced defects in the Plan are cured; and (ii) grant any other and further relief that the Court deems just and proper.

Dated: October 22, 2018

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